



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS

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March 2, 1949.

Hon. J. E. McDonald
Commissioner
Department of Agriculture
Austin, Texas

Opinion No. V-781.

Attention: Hon. N. K. Burke

Re: The necessity for County Clerks to certify all Public Weighers to the Commissioner of Agriculture.

Dear Sir:

Reference is made to your recent request which reads in part as follows:

"This department desires a legal opinion as to whether or not County Clerks over the state are required to certify to the Commissioner of Agriculture the appointment or election of Public Weighers qualifying as such under the provisions of Article 5683 Revised Civil Statutes of 1925? . . .

"Are Title 132 Revised Civil Statutes and Chapter 76 Acts of the 36th Legislature in pari materia, and to be construed together, in order to ascertain the true intent of the Legislature with reference to the enforcement of the Public Weighers laws. In other words, are the laws of the old Warehouse Commission or any portion thereof still in effect along with the present laws since the Commission was combined with the Department of Agriculture?"

Section 1, Chapter 13, p. 35, Acts of the 39th Legislature, R. S., 1925, provides as follows:

"The office of Commissioner of Markets and Warehouses of the State of Texas is hereby abolished, and the authority, duties, powers, functions, rights, and liabilities, heretofore vesting in said commissioner, shall hereafter vest in and be had and performed by the Commissioner of Agriculture. The Markets and

Warehouse Department and the Weights and Measures Department of the State of Texas are hereby abolished, and the duties and functions of the same shall hereafter vest in the Commissioner of Agriculture."

Section 2, Chapter 76, p. 123, Acts of the 36th Legislature, R. S., 1919 (Art. 7833b, V. C. S., 1914 Supp.), relating to public weighers provides in part that:

". . . Such bond shall be good for the term of two years from the date given, and shall be subject to the approval of the Commissioners' Court of the County in which such public weigher resides. After such bond is filed, approved and recorded, as provided by law, the County Clerk shall immediately certify such appointment, or election, to the Commissioner of Markets and Warehouses of Texas. . . ."

The above quoted provision that "the County Clerk shall immediately certify such appointment, or election, to the Commissioner of Markets and Warehouses of Texas" (now the Commissioner of Agriculture) was not included when the laws of this State were revised in 1925.

By Section 2 of the Codification Act, V. C. S., 1925, Final Title, there is this repealing clause:

"That all civil statutes of a general nature, in force when the Revised Statutes take effect, and which are not included herein, or which are not hereby expressly continued in force, are hereby repealed."

We are unable to find any statute which requires the County Clerks to certify to the Commissioner of Agriculture the appointment or election of public weighers who qualify under the provisions of Article 5683, V. C. S., which reads as follows:

"In all counties in which there are no city or cities in which the Governor is authorized to appoint public weighers, there shall be elected at each general election a public weigher for each justice precinct in

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the manner and form governing the election of other precinct officers. The commissioners court at the regular February term preceding the election may unite two or more justice precincts for the purpose of electing such public weighers."

As to your last question you are advised that only such portions of the old laws relating to markets and warehouses as were included in the Revised Statutes of 1925 are in effect, and to that extent only may the provisions of Title 132, Chapter 76, Acts of the 36th Legislature, R.S., 1919, be construed in pari materia with the present statutes dealing with this subject.

SUMMARY

County Clerks are not required to certify to the Commissioner of Agriculture the appointment or election of Public Weighers qualifying under the provisions of Art. 5683, V.C.S. Only such portions of the old laws relating to Markets and Warehouses as were included in the Revised Civil Statutes of 1925 may be construed in pari materia with the present statutes dealing with this subject.


Yours very truly,

ATTORNEY GENERAL OF TEXAS

By 
Bruce Allen
Assistant

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APPROVED


FIRST ASSISTANT
ATTORNEY GENERAL